

REMARKS

A. Background

The present application, Serial No. 09/737,392, was filed on December 15, 2000. Claim 34 of the application was allowed. Claims 6-19 and 35 were objected to. Claims 1-4, 21-24 were rejected under 35 USC § 102(b). Claims 5, 25-33 and 36-41 were rejected under 35 USC § 103(a). Claims 1-3 and 35 and 36 were amended above to correct certain typographical and grammatical errors and not for reasons relating to patentability.

B. Rejections on the Merits

Claims 1-4, 21-24 were rejected under 35 USC § 102(b) citing Bertoletti, U.S. Patent No. 4,946,160 and Claims 5, 25-33 and 36-41 were rejected under 35 USC § 103(a) citing Bertoletti in view of Vaughan, U.S. Patent No 5,062,629.

The present invention relates to a dynamic exercise platform. The invention is used by an individual to balance upon. The present invention combines a flexible connector with a full range of tilting motion and an adjustment mechanism that allows the user to adjust the flexibility of a balance board without needing to raise or lower the board itself. Claim 1 of the present application is for a platform that has a hub that is moveable to enable said board to “*tilt in any direction*” (emphasis added).

Claims 1-24:

Bertoletti fails to disclose or suggest a platform that can tilt in any direction. The Bertoletti description states that the Bertoletti platform 3’ simultaneously rotates and inclines. Column 3, line 13. The Bertoletti platform 3’ can be contrasted with the board in the present invention, which can

tilt in any direction without any rotation of the board.

The Bertoletti platform 3' is coupled to first and second half wheels that rock back and forth. Movement of the board results from the rolling of half-wheels 5' and 4' upon flanges 6 and 14 respectively and the rotation of the board about its central shaft 19. One half wheel 4' is shorter than another half wheel 5'. The rocking motion of the wheels results in the inclination and rotation of the platform 3'.

However, tilting in "any" direction is not allowed. For example, as discussed in column 2, line 28, a shank 19 which is fixed to platform 3' has a transverse pin 20 extending therethrough. See Fig. 2. According to the patent "[t]he axis of this pin represents the horizontal rocking axis of the platform 3'. Column 2, line 52. Since the Bertoletti platform 3' has such an axis, the platform can rock about its axis, but cannot tilt perpendicularly with respect to its axis. In other words, platform 3' is not free to tilt directly to the left or to the right in the view shown in Figure 2 because of pin 20 coupled to shank 19. Bertoletti thus teaches away from tilting in any direction.

Such tilting in any direction is, however, available on the applicants' invention.

Similarly, with respect to claim 5, there is no suggestion to combine Bertoletti with Vaughan since Bertoletti fails to teach tilting "in any direction" and since Vaughan fails to teach a tilt adjuster movably coupled to a flexible connector, among other factors.

Claims 25-33

As mentioned above, Bertoletti teaches a rocking device that relies on the rocking type movement of the platform 3' in order to destabilize the user, causing the user to experience conditions that will help train the user before skiing. Bertoletti does not rely on the flexibility of a "flexible connector" in order to provide a destabilizing action. Bertoletti's half-wheels are "rigid

A

with the platform” Column 2, line 29 and roll in order to create an unstable dynamic. Thus Bertoletti teaches away from the use of a “flexible connector” employed to create a tilting action.

Furthermore, Vaughan fails to teach a tilt adjuster interposed between first and second supports. Furthermore, the disclosure of the adjustable screw for Bertoletti’s half wheel does not obviate a tilt adjuster relating to a flexible connector.

Specifically regarding claim 31, neither Bertoletti nor Vaughan disclose nor suggest an adjuster placed *about* a flexible connector. For example, Bertoletti’s adjustable screw is mounted on only one side of the hub.

Thus, there is no suggestion to combine Bertoletti and Vaughan and claims 25-30 and 31-33 are not obviated by Bertoletti and Vaughan.

Claims 37-41

The elastic cable 22 of Bertoletti is provided in order to “cause a preload to act on the sportsman’s legs,” column 2, line 56, and is coupled to a centrally oriented shank 19. On the other hand, the handles of the present invention can be employed to increase the tilting of the board. See page 20, lines 5-12. By coupling the handle of the present invention to the periphery of the board, as shown in Figure 1, the handles can be used to increase the amount of tilting experienced by a user. Claim 37 also claims that the board can tilt in any direction, as opposed to the Bertoletti disclosure.

D. Conclusion

In light of the above, the applicant respectfully submits that the application is in condition for allowance. In the event there remains any impediment to allowance of the claims that could be

clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Dated this 21st day of June 2002.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'DBD', with a long horizontal flourish extending to the right.

David B. Dellenbach
Attorney for Applicant
Registration No. 39,166

WORKMAN, NYDEGGER & SEELEY
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 533-9800
Fax: (801) 328-1707

DBD:nja
N:\13914.632 - RESPONSE.DOC

US 9/24/02
wrong numbering

VERSION WITH MARKINGS TO SHOW CHANGES MADE

4. An exercise platform that is dynamic in nature to provide an unstable surface upon which an individual may exercise, the exercise platform comprising:

a stable base;

a board upon which the individual may exercise; and

an adjustable hub, wherein a first end of said adjustable hub is coupled to said base and a second end of said adjustable hub is coupled to said board, and wherein said hub is moveable [moves] to thereby enable [cause] said board to tilt in any direction.

2. 5. An exercise platform as recited in claim 1, wherein said hub moves by flexing to enable [cause] said board to tilt in any direction.

3. 6. An exercise platform as recited in claim 1, wherein said hub moves laterally to enable [cause] said board to tilt in any direction.

35. A dynamic platform as recited in claim [32] 34, wherein a central position of said board remains unchanged while one of said one or more abutment member sets is selectively aligned with said top abutment member set.

36. A dynamic platform as recited in claim [31] 34, further comprising one or more handles coupled to said board for modifying the unstable surface of the dynamic platform.

A

37. An exercise platform that is dynamic in nature to provide an unstable surface upon which an individual may exercise, the exercise platform comprising:

a stable base;

a board upon which the individual may exercise;

a hub, wherein a first end of said hub is coupled to said base and a second end of said hub is coupled to said board, and wherein said hub is flexible to thereby enable [flexes to cause] said board to tilt in any direction; and

a handle coupled to the board, wherein said handle is stretchable and coupled to a peripheral portion of the board, such that the use of the handle increases the tilting of the board.